

MEETING MINUTES, BOARD OF ZONING APPEALS, FEBRUARY 25, 2008

Present: Phil Tinkle, Shan Rutherford, Mike Campbell, Alford Kessinger, Jay Isenberg, Asst. City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

February 11th –Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

FINDINGS OF FACT

Docket V2008-002 – Dimensional Variance – Panda Express – Rutherford moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-002, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

NEW BUSINESS

Docket V2008-003 – Dimensional Variance – Greenwood Christian Church – located at 2045 Averitt Road – request to increase maximum allowable building height from 35' to 45' – Greenwood Christian Church, applicant; Kevin Hoover, attorney; representing.

Board Member Rutherford recused himself from consideration of this petition.

Kevin Hoover, Attorney; David Strange, Director of Operations, Greenwood Christian Church; and Scott Lee, Architect w/Aspen Group; came forward and were sworn.

A site plan of the property showing the existing buildings and proposed auditorium addition was presented for the Board's review. Hoover pointed out that the nearest residential home is in excess of 300 feet away from the proposed addition.

The statutory criteria was addressed as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks to construct an addition to an existing religious use that would house and auditorium. This addition would be constructed in accordance with appropriate building codes and would still be served by public safety agencies. The increase in height from that permitted by the Ordinance would not create any additional visual or audible distractions to pedestrians or motorists.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The auditorium element of the campus would be the sole element inconsistent with the height requirement of the Ordinance. This auditorium element would be separated from the nearest single-family residential use by more than 300 linear feet. Additionally the architectural style of the auditorium would be consistent with existing structures within the campus which should promote harmony in the building environment.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The height restrictions within the Ordinance are intended to restrict the construction of residential and are not entirely appropriate to uses which are consistent with residential development but may need taller

structures such as auditoriums or gymnasiums associated with churches and schools. In this instance, the church intends to construct a 1,300 person auditorium and needs the increased height to accommodate the correct sense of scale, the installation of multi-media equipment, and to properly tune the acoustics of the space.

4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** the use is outside the Airspace Overlay District and is located 14,187 feet from the runway of the nearest public use airport.

The floor was opened for questions from the Board. Tinkle asked what the exterior will look like. It will be compatible with what is on the Church building currently.

Newspaper affidavit from the Southside Challenger was not received. Peeples stated he had talked with the Challenger and obtained a copy of the newspaper containing all three legal ads for the petitions this evening. He indicated the Challenger will be sending the affidavits this week.

Campbell moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Kessinger. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Campbell moved to approve an increase in maximum allowable building height from 35' to 45' for Greenwood Christian Church located at 2045 Averitt Road, seconded by Kessinger. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Kessinger moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-003, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Rutherford resumed his position with the Board.

Docket V2008-004 – Dimensional Variance – Heartland Community Bank – located at 2433 E. Main St. – request to allow ground sign with height of 6' 6" – Heartland Community Bank, applicant; Doug Staley, Jr., Staley Signs, representing.

Doug Staley, Jr., Staley Signs; and Trent McWilliams, Heartland Bank; came forward and were sworn.

The overall height of the sign will be 6'6". The Sign Code allows for a maximum height of 4' for ground signs. The sign will set back 30' from Main St. Staley stated that due to the setback his client feels the additional height is needed for better visibility of the sign.

The statutory criteria was addressed as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks a sign that is approximately 2.5 feet taller than that permitted by the Ordinance but would be set back 30 feet from the Main Street right-of-way. The increased setback would ensure that the sign does not act as an obstruction to sight lines.

2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The request proposes a ground sign slightly taller than that permitted by the Ordinance, but at a setback greater than typical. The architectural style of the sign would compliment the emerging building and the effect on property values should be in no way dissimilar than the effect of a sign constructed at 4 feet in height.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The required greenbelt mandates a setback greater than the 10 feet normally required. Because of this increased setback, a taller sign would provide for visibility commensurate with a 4-foot sign at a 10-foot setback.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** The site is 8,532 feet from the runway of the nearest public use airport and the property improvements were the subject of a Site Development Plan petition (PC2007-046) wherein a No Hazard to Air Navigation determination was made by the FAA.

The floor was opened for questions from the Board.

Newspaper affidavit from the Southside Challenger was not received. Peebles stated he had talked with the Challenger and obtained a copy of the newspaper containing all three legal ads for the petitions this evening. He indicated the Challenger will be sending the affidavits this week.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved to approve a ground sign with a height of 6' 6" for Heartland Community Bank located at 2433 E. Main St., seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-004, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Kessinger. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2008-005 – Dimensional Variance – 1152 Stonegate Road – request to allow 6.5' sideyard setback for proposed attached garage – James & Melanie Howell, owners and applicants.

James & Melanie Howell came forward and were sworn.

The variance request is to allow a third car garage on the north side of their existing house. The required setback is 10'. The proposed setback will be 6.5'. The exterior of the addition will be brick that matches the existing home.

The statutory criteria was addressed as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The addition of an attached garage/workshop to the existing house with a setback of 6.5 feet from the property line would provide for a 22-foot separation from the improved dwelling and the existing dwelling to the north. Additionally, both dwellings would be clad in a brick veneer further enhancing the flame retardant qualities of the structures.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The request seeks to construct an attached garage of similar architectural qualities as the current building. There would remain a 6.5-foot area to provide for building maintenance around the north side of the structure. Only the structure to the north of the proposed addition would possibly be affected and they would be separated by approximately 22 feet.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** While the Ordinance would provide for the construction of a detached garage in the rear yard of the property, this option would require the installation of a driveway on the property line in order to comply with the requirements of the Fire Code for a 20-foot access drive around the structure. The option, therefore, is to provide for an attached garage with a 6.5-foot setback or a concrete driveway on the property line to gain access to a detached garage. It is more likely that the installation of a driveway on the property line would be perceived as more intrusive to the neighbor to the north than would an attached garage on the existing building.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** the use is outside the Airspace Overlay District and is located 18,453 feet from the runway of the nearest public use airport.

The floor was opened for questions from the Board. Kessinger asked about the configuration of the driveway. The existing curb cut will be used and the driveway will then angle up to the new garage addition.

Newspaper affidavit from the Southside Challenger was not received. Peeples stated he had talked with the Challenger and obtained a copy of the newspaper containing all three legal ads for the petitions this evening. He indicated the Challenger will be sending the affidavits this week.

Campbell moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved to approve a sideyard building setback of 6'5" for the property located at 1152 Stonegate Road, with the following conditions:

- 1) A driveway shall be located to the proposed garage consistent with the requirements of the City Code.
- 2) The additional shall be faced in brick veneer.

seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Kessinger moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-005, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Rutherford moved to adjourn, seconded by Campbell . Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:35 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman